

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

DENNIS W. THOMAS,)
)
Plaintiff,)
)
vs.)
)
GREGORY P. BRINKER, MARK RAND,)
ELSIE S. TORRES, and)
CITY OF INDIANAPOLIS,)
)
Defendants.)

No. 1:09-cv-01516-TWP-TAB

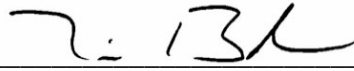
ORDER DENYING PLAINTIFF'S MOTION TO STRIKE

Before the Court is Plaintiff Dennis Thomas's motion to strike Defendants' partial motion to dismiss. [Docket No. 34.] Plaintiff argues that Defendants' motion to dismiss repeats "almost verbatim" the arguments set forth in their previous motion to dismiss, which Defendants withdrew following Plaintiff's amended complaint. [*Id.* at 1–2.] Defendants respond that generally under Federal Rule of Civil Procedure 12(f), motions to strike are employed only as a last resort, and the arguments set forth in their pending motion to dismiss are not entirely duplicative. [Docket No. 36.]

The Court agrees with Defendants. Generally, Rule 12(f) motions are disfavored, and Defendants' recent motion to dismiss is not identical to their initial motion, as it removes arguments about Rule 8 standards and punitive damages. [Docket No. 16; Docket No. 32.] Moreover, Defendants withdrew their initial motion to dismiss in response to Plaintiff's amended complaint [Docket No. 36 at 2], so the Court has not addressed their arguments. Thus,

the Court denies Plaintiff's motion to strike. [Docket No. 34.]

Dated: 07/20/2010

A handwritten signature in black ink, appearing to read 'T. Baker', is written above a horizontal line.

Tim A. Baker
United States Magistrate Judge
Southern District of Indiana

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